IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 17257 of 2003

And

Contempt Case No. 962 of 2004

WRIT PETITION NO. 17257 OF 2003

Between:

Dadi Srinivasa Rao S/o.Paiditalli
D.No.1-8-3, Kothavenojipalem, Visakhapatnam-17

..... PETITIONER

AND

1 Andhra University, rep. by its Registrar Visakhapatnam.
2 Vice-Chancellor Andhra University, Visakhapatnam.

.....RESPONDENTS

Writ Petition No.17257 of 2003 is filed under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction more particularly one in the nature of writ of Certiorari calling for the records of the 2nd respondent pertaining his proceedings vide S-3(1) 1269(ii)/96 dated:09.05.2003 and to quash the same holding that it is illegal, arbitrary, malafide and against the principles of natural justice and to consequently direct the respondents to reinstate the petitioner in the services as an attender treating his absence period as on medical leave with all the attendant benefits such as continuity of services, back wages, and promotion etc.,

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Contempt Case No. 962 of 2004

Between:

Dadi Srinivasa Rao S/o.Paiditalli
D.No.1-8-3, Kothavenojipalem, Visakhapatnam-17

..... PETITIONER

AND

1. Prof. M.B.Prasada Rao,son of M.Krishnamurthy naidu, aged about 50 Yrs. Registrar, Andhra University, Visakhapatnam.

2. Prof. Simhadri, Vice-Chancellor, Andhra University, Visakhapatnam.

.....RESPONDENTS

Contempt case No. 962 of 2004 is filed by the petitioner under Sections 10 to 12 of the Contempt of Courts Act to summon the respondents and to punish them for their willful, deliberate contempt of Orders of this Court dated 06-11-2003 in WPMP No. 21418 of 2003 in W.P.No. 17257 of 2003.

Counsel for the Petitioner :Mr.K.SARVABHOUMA RAO(in both cases)

Counsel for the Respondent s: MR.T.RAJENDRA PRASAD (-do-)

The Court made the following :

Order:-

The petitioner was initially appointed as a daily wage attender in the Andhra University on 08-10-1992 on compassionate grounds and subsequently, his services were regularized by proceedings dated 27-08-1996. and posted in a regular vacancy. He became seriously sick due to injury received when he fell from motorcycle. Due to lumber pain and back pain he was bed ridden from 14-08-2002. Thus he was not attending the office from 14-8-2002 and sent leave letters availing sick leave. A show cause notice was issued to him on 18-10-2002 as to why he shall not be removed from service as a major punishment. To that notice, the petitioner gave explanation on 24-10-2002 enclosing medical certificate. Thereafter he reported to duty on 18-12-2002 by submitting medical certificate also. Without allowing the petitioner to join duty, the respondents passed the impugned order dated 09-05-2003 removing the petitioner from the post of attender with retrospective

effect from 14-8-2002 i.e. the date of absence from duty.

Admittedly, a charge was framed in the show cause notice and without conducting any domestic enquiry and without giving opportunity to the petitioner, the impugned proceedings are passed removing the petitioner from service. Therefore, this Court while admitting the writ petition held that the impugned order does not stand to legal scrutiny since the impugned order dismissing the writ petitioner from service was passed with retrospective effect. Admittedly no enquiry has been conducted and therefore, the said order is against the principles of natural justice and is unsustainable. Accordingly the said impugned order dated 09-05-2003 is liable set aside and it is open to the University to take appropriate disciplinary action in accordance with the rules and regulations existing in force.

In the result, the writ petition is allowed by setting aside the impugned order dated 09-05-2003. The respondents- University is directed to consider the leave application said to have been submitted along with the medical certificate by the writ petitioner for not attending the duty for grant of leave and pass appropriate orders on the said application.

In view of allowing the Writ petition by setting aside the impugned order passed by the University, the contempt case is closed.

Sd.

(JUSTICE V.ESWARAIAH)

TSVK.

Rule nisi has been made absolute as above. Witness the Hon'ble Sri Devender Gupta, the Chief Justice on this the Friday the nineteenth day of November, 2004.

Sd.

Asst. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Registrar, Andhra University, Visakhapatnam.

2.The Vice-Chancellor,Andhra University, Visakhapatnam.

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